

U.S. Patent Application No. 10/500,346
Response to Restriction Requirement dated January 15, 2007
Reply to Office Action of December 19, 2006

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REMARKS/ARGUMENTS

At page 2 of the Office Action, the Examiner is requesting that the applicant elect from one of three groups as follows:

- I. Claims 1-9, 17, and 18, drawn to a method for preparing a polynucleotide having translation efficiency regulating activity by supplying one or more template comprising any nucleotide sequence to a protein synthesis system, recovering a polyribosomal fraction from said reaction solution and collecting a polynucleotide comprising said nucleotide sequence in the template contained in said polyribosomal fraction.
- II. Claims 10-14, 16, 19, and 20, drawn to a polynucleotide having the activity of regulating translation efficiency and vectors comprising said polynucleotide.
- III. Claim 15, drawn to a protein synthesis method utilizing a template having translation efficiency regulating activity.

To be responsive, the applicants elect, with traverse, Group II, claims 10-14, 16, 19, and 20, for examination.

For the following reasons, the restriction requirement is respectfully traversed.

The Examiner refers to Groups I - VI at page 3 of the Office Action, but this appears to be in error, as only Groups I - III exist on page 2 of the Office Action.

This application is a § 371 National Stage entry which takes into consideration the unity requirements for applications entering from the PCT application. Contrary to the Examiner's comments, in the counterpart International application, unity was found with respect to many of the claims, as shown in the International Search Report and Examination Report. Thus, all claims in all of the groups should be examined at this time. With regard to the non-elected claims, it is respectfully submitted that these claims should be examined at this time since there appears to be no serious burden on the part of the Examiner to search the entire scope of the claims. At a minimum, these claims should be rejoined upon the allowability of the subject matter of Group II due to their

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relationship to the subject matter of the remaining groups. It is believed that the subject matter has the same concept from the standpoint that the searches would overlap to some extent. Under M.P.E.P. § 803, if there is no serious burden in the examination of all of the claims even if the claims are directed to separate inventions, the Examiner must examine all claims at this time. It would appear that § 803 applies to the current situation and therefore the restriction requirement should be withdrawn and all claims should be examined at this time. At a minimum, the Examiner should re-group these non-elected claims upon the allowability of the Group II subject matter.

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,



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